

**Response**

Serial No.: 09/916,399

Confirmation No.: 7742

Filed: July 27, 2001

For: GLASS IONOMER CEMENT

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**Remarks**

The Office Action mailed November 7, 2003 has been received and reviewed. No claims having been added, amended, or canceled, the pending claims are claims 1-40. Reconsideration and withdrawal of the rejections are respectfully requested.

**Affirmation of Provisional Election**

The Examiner issued a Restriction Requirement under 35 U.S.C. §121 in the above-identified application, grouping the claims as follows: Group I, Claims 1-19 drawn to a glass ionomer cement, and Group II, Claims 20-40, drawn to a method of curing and a method for treating tooth tissue. A provisional election to prosecute claims 1-19, Group I, was made in response to a telephone conversation between Mr. Skolnick and the Examiner on October 23, 2003. The provisional election to prosecute Group I is herein affirmed with traverse. Applicant respectfully requests reconsideration of the restriction requirement in this case and submits that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner.

**Rejection under 35 U.S.C. §102, or in the alternative, under 35 U.S.C. §103**

The Examiner rejected claims 1-19 under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Pat. No. 5,922,786 (Mitra et al.). Applicant respectfully traverses the rejection.

The present invention provides a glass ionomer cement (e.g., independent claim 1) and a glass ionomer cement kit (e.g., independent claim 13). The glass ionomer cement and glass ionomer cement kit include a) polymer having a plurality of acidic repeating units but being substantially free of polymerizable vinyl groups; b) polymer having a plurality of acidic repeating units and a plurality of polymerizable vinyl groups; c) fluoroaluminosilicate glass; d) redox cure system that can initiate dark cure of the vinyl groups; and e) water.

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Mitra et al. disclose "[a] multiple-part dental adhesive primer composition" (Abstract). The primer composition may optionally include a hydrophilic component such as "ionic or ionizable polymers and copolymers containing polyacrylic acid, polymethacrylic acid in unionized, partially neutralized or fully neutralized form" (column 7, line 66 to column 8, line 2), e.g., a polymer having a plurality of acidic repeating units but being substantially free of polymerizable vinyl groups. The primer composition may also include "a polymerizable compound that is a monomer, oligomer, pre-polymer or a polymer having molecular weight greater than 250" (column 2, lines 15-17), e.g., a polymer having a plurality of acidic repeating units and a plurality of polymerizable vinyl groups. The primer composition may also include "an oxidizing agent and a reducing agent as a redox catalyst system to enable the dental composition to cure via a redox reaction" (column 9, lines 20-22), e.g., a redox cure system that can initiate dark cure of the vinyl groups. Finally, the primer composition may include water (column 1, line 32).

However, Mitra et al. lack a specific disclosure or suggestion that the primer composition is a *glass ionomer cement* that includes *fluoroaluminosilicate glass* (e.g., independent claims 1 and 13). Thus, Applicant respectfully submits that Mitra et al. fail to anticipate present claims 1-19, and requests that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §102.

Moreover, Applicant respectfully submits that one of skill in the art would have no motivation to modify Mitra et al. to arrive at the presently claimed invention. Applicant notes that although Mitra et al. recite treated fluoroaluminosilicate glass in Preparatory Example 1 (column 12, lines 4-35), Mitra et al. fail to suggest that the treated fluoroaluminosilicate glass be used in the disclosed primer compositions (e.g., solutions A1-A4 and B1 in Examples 1-4). Specifically, Preparatory Example 1 (column 12, lines 4-35) was used solely in preparing the paste of Preparatory Example 4 (column 13, lines 7-21) for use in measuring adhesion as described in Examples 1-4 (column 13, line 22 to column 14, line 7).

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For at least the reasons presented herein above, Applicant respectfully submits that claims 1-19 are patentable over Mitra et al. Applicant respectfully requests that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §102 and/or §103.

**Request for Rejoinder**

Independent claim 20, directed to a method of making, and independent claim 35, directed to a method of using, recite the language from independent claim 1. Upon an indication of claim 1 being allowable, Applicant respectfully requests that claims 20-40 also be examined and passed on to allowance pursuant to M.P.E.P. §821.04. *See, for example, In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir. 1995) and *In re Brouwer*, 77 F.3d 422, 37 USPQ2d 1663 (Fed. Cir. 1996).

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**Summary**

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicant's Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for

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February 9, 2004

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**CERTIFICATE UNDER 37 CFR §1.8:**

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9<sup>th</sup> day of February, 2003, at 1:57 p.m. (Central Time).

By: Rachel Gagliardi-GubraName: Rachel Gagliardi-Gubra